

§ 1448. Process after removal

In all cases removed from any State court to any district court of the United States in which any one or more of the defendants has not been served with process or in which the service has not been perfected prior to removal, or in which process served proves to be defective, such process or service may be completed or new process issued in the same manner as in cases originally filed in such district court.

This section shall not deprive any defendant upon whom process is served after removal of his right to move to remand the case.

(June 25, 1948, ch. 646, 62 Stat. 940.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §83 (Apr. 16, 1920, ch. 146, 41 Stat. 554).

Words "district court of the United States" were substituted for "United States Court," because only the district courts now possess jurisdiction over removed civil and criminal cases.

Changes were made in phraseology.

§ 1449. State court record supplied

Where a party is entitled to copies of the records and proceedings in any suit or prosecution in a State court, to be used in any district court of the United States, and the clerk of such State court, upon demand, and the payment or tender of the legal fees, fails to deliver certified copies, the district court may, on affidavit reciting such facts, direct such record to be supplied by affidavit or otherwise. Thereupon such proceedings, trial, and judgment may be had in such district court, and all such process awarded, as if certified copies had been filed in the district court.

(June 25, 1948, ch. 646, 62 Stat. 940; May 24, 1949, ch. 139, §85, 63 Stat. 102.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 28, U.S.C., 1940 ed., §78 (Mar. 3, 1911, ch. 231, §35, 36 Stat. 1098).

Changes were made in phraseology.

1949 ACT

This section corrects a typographical error by eliminating from section 1449 of title 28, U.S.C., the words "any attachment or sequestration of the", which had been inadvertently included, and inserting in lieu thereof the words, "and the clerk of such State court, upon".

AMENDMENTS

1949—Act May 24, 1949, substituted "and the clerk of such State court, upon" for "any attachment or sequestration of the".

§ 1450. Attachment or sequestration; securities

Whenever any action is removed from a State court to a district court of the United States, any attachment or sequestration of the goods or estate of the defendant in such action in the State court shall hold the goods or estate to answer the final judgment or decree in the same manner as they would have been held to answer final judgment or decree had it been rendered by the State court.

All bonds, undertakings, or security given by either party in such action prior to its removal

shall remain valid and effectual notwithstanding such removal.

All injunctions, orders, and other proceedings had in such action prior to its removal shall remain in full force and effect until dissolved or modified by the district court.

(June 25, 1948, ch. 646, 62 Stat. 940.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §79 (Mar. 3, 1911, ch. 231, §36, 36 Stat. 1098).

Changes were made in phraseology.

§ 1451. Definitions

For purposes of this chapter—

(1) The term "State court" includes the Superior Court of the District of Columbia.

(2) The term "State" includes the District of Columbia.

(Added Pub. L. 91-358, title I, §172(d)(1), July 29, 1970, 84 Stat. 591.)

EFFECTIVE DATE

Section effective first day of seventh calendar month which begins after July 29, 1970, see section 199(a) of Pub. L. 91-358, set out as an Effective Date of 1970 Amendment note under section 1257 of this title.

§ 1452. Removal of claims related to bankruptcy cases

(a) A party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit's police or regulatory power, to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title.

(b) The court to which such claim or cause of action is removed may remand such claim or cause of action on any equitable ground. An order entered under this subsection remanding a claim or cause of action, or a decision to not remand, is not reviewable by appeal or otherwise by the court of appeals under section 158(d), 1291, or 1292 of this title or by the Supreme Court of the United States under section 1254 of this title.

(Added Pub. L. 98-353, title I, §103(a), July 10, 1984, 98 Stat. 335; amended Pub. L. 101-650, title III, §309(c), Dec. 1, 1990, 104 Stat. 5113.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101-650 inserted before period at end "by the court of appeals under section 158(d), 1291, or 1292 of this title or by the Supreme Court of the United States under section 1254 of this title".

EFFECTIVE DATE

Section effective July 10, 1984, see section 122(a) of Pub. L. 98-353, set out as a note under section 151 of this title.

§ 1453. Removal of class actions

(a) DEFINITIONS.—In this section, the terms "class", "class action", "class certification order", and "class member" shall have the meanings given such terms under section 1332(d)(1).

(b) **IN GENERAL.**—A class action may be removed to a district court of the United States in accordance with section 1446 (except that the 1-year limitation under section 1446(b) shall not apply), without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed by any defendant without the consent of all defendants.

(c) **REVIEW OF REMAND ORDERS.**—

(1) **IN GENERAL.**—Section 1447 shall apply to any removal of a case under this section, except that notwithstanding section 1447(d), a court of appeals may accept an appeal from an order of a district court granting or denying a motion to remand a class action to the State court from which it was removed if application is made to the court of appeals not more than 10 days after entry of the order.

(2) **TIME PERIOD FOR JUDGMENT.**—If the court of appeals accepts an appeal under paragraph (1), the court shall complete all action on such appeal, including rendering judgment, not later than 60 days after the date on which such appeal was filed, unless an extension is granted under paragraph (3).

(3) **EXTENSION OF TIME PERIOD.**—The court of appeals may grant an extension of the 60-day period described in paragraph (2) if—

(A) all parties to the proceeding agree to such extension, for any period of time; or

(B) such extension is for good cause shown and in the interests of justice, for a period not to exceed 10 days.

(4) **DENIAL OF APPEAL.**—If a final judgment on the appeal under paragraph (1) is not issued before the end of the period described in paragraph (2), including any extension under paragraph (3), the appeal shall be denied.

(d) **EXCEPTION.**—This section shall not apply to any class action that solely involves—

(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 (15 U.S.C. 78p(f)(3)¹) and section 28(f)(5)(E) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(f)(5)(E));

(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 (15 U.S.C. 77b(a)(1)) and the regulations issued thereunder).

(Added Pub. L. 109-2, §5(a), Feb. 18, 2005, 119 Stat. 12; amended Pub. L. 111-16, §6(2), May 7, 2009, 123 Stat. 1608.)

AMENDMENTS

2009—Subsec. (c)(1). Pub. L. 111-16 substituted “not more than 10 days” for “not less than 7 days”.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-16 effective Dec. 1, 2009, see section 7 of Pub. L. 111-16, set out as a note under section 109 of Title 11, Bankruptcy.

¹ So in original. Probably should be “77p(f)(3)”.

EFFECTIVE DATE

Section applicable to any civil action commenced on or after Feb. 18, 2005, see section 9 of Pub. L. 109-2, set out as an Effective Date of 2005 Amendment note under section 1332 of this title.

[CHAPTER 90—OMITTED]

CODIFICATION

Chapter 90, consisting of sections 1471 to 1482, which was added by Pub. L. 95-598, title II, §241(a), Nov. 6, 1978, 92 Stat. 2668, and which related to district courts and bankruptcy courts, did not become effective pursuant to section 402(b) of Pub. L. 95-598, as amended, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

TRANSITION TO NEW COURT SYSTEM

Pub. L. 95-598, title IV, §409, Nov. 6, 1978, 92 Stat. 2687, as amended by Pub. L. 98-249, §1(d), Mar. 31, 1984, 98 Stat. 116; Pub. L. 98-271, §1(d), Apr. 30, 1984, 98 Stat. 163; Pub. L. 98-299, §1(d), May 25, 1984, 98 Stat. 214; Pub. L. 98-325, §1(d), June 20, 1984, 98 Stat. 268; Pub. L. 98-353, title I, §121(d), July 10, 1984, 98 Stat. 346, which provided for transfer to the new court system of cases, and matters and proceedings in cases, under the Bankruptcy Act [former Title 11] pending at the end of Sept. 30, 1983, in the courts of bankruptcy continued under section 404(a) of Pub. L. 95-598, with certain exceptions, and cases and proceedings arising under or related to cases under Title 11 pending at the end of July 9, 1984, and directed that civil actions pending on July 9, 1984, over which a bankruptcy court had jurisdiction on July 9, 1984, not abate, but continuation of such actions not finally determined before Apr. 1, 1985, be removed to a bankruptcy court under this chapter, and that all law books, publications, etc., furnished bankruptcy judges as of July 9, 1984, be transferred to the United States bankruptcy courts under the supervision of the Director of the Administrative Office of the United States Courts, was repealed by Pub. L. 98-353, title I, §122(a), July 10, 1984, 98 Stat. 343, 346, eff. July 10, 1984.

CHAPTER 91—UNITED STATES COURT OF FEDERAL CLAIMS

Sec.	
1491.	Claims against United States generally; actions involving Tennessee Valley Authority.
1492.	Congressional reference cases.
[1493.]	Repealed.]
1494.	Accounts of officers, agents or contractors.
1495.	Damages for unjust conviction and imprisonment; claim against United States.
1496.	Disbursing officers' claims.
1497.	Oyster growers' damages from dredging operations.
1498.	Patent and copyright cases.
1499.	Liquidated damages withheld from contractors under chapter 37 of title 40.
1500.	Pendency of claims in other courts.
1501.	Pensions.
1502.	Treaty cases.
1503.	Set-offs.
[1504.]	Repealed.]
1505.	Indian claims.
[1506.]	Repealed.]
1507.	Jurisdiction for certain declaratory judgments.
1508.	Jurisdiction for certain partnership proceedings.
1509.	No jurisdiction in cases involving refunds of tax shelter promoter and understatement penalties.

HISTORICAL AND REVISION NOTES

1949 ACT

This section inserts in the analysis of chapter 91 of title 28, U.S.C., item 1505, corresponding to new section 1505.